IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 19TH OCTOBER 2007 / 27TH ASWINA 1929

WP(C).No. 26640 of 2007(U)

PETITIONER:

SERGEANT K.MANOJ, SERVICE NO.727723 'L',
TRADE: CLERK GENERAL DUTIES HEAD QUARTERS
SOUTHERN AIR COMMAND (UNIT), AIR FORCE I.A.F.,
AKKULAM, THIRUVANANTHAPURAM.

BY ADV. SRI.V.K.SATHYANATHAN

RESPONDENTS:

---

1. THE CHIEF OF AIR STAFF,
AIR HEAD QUARTERS (VAYU BHAVAN)
RAFI MARG, NEW DELHI.

2. THE COMMANDING OFFICER,
HEAD QUARTERS SOUTHERN AIR COMMAND (UNIT),
AKKULAM, THIRUVANANTHAPURAM.

3. THE OFFICER-IN-CHARGE,
CIVIL ADMIN SECTION,
HEAD QUARTERS SOUTHERN AIR COMMAND (UNIT),
AKKULAM, THIRUVANANTHAPURAM.

4. AIR OFFICER COMMANDING
AIR FORCE RECORD OFFICE
SUBROTO PARK, NEW DELHI.

BY ADV. SRI.ABRAHAM THOMAS, CGC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 19/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J.

W.P.(C). NO. 26640 OF 2007

Dated this the 19th day of October, 2007

J U D G M E N T

Petitioner is a combatant of Indian Air Force holding the Rank of Sergeant, which is a Senior Non-Commissioned rank in the Indian Air Force. Petitioner is due to complete 20 years of service on 31.7.08. Petitioner contends that he therefore is eligible for discharge from service on 31.7.08. Petitioner has intimated his unwillingness for extension of engagement on 20.3.02. A 'No Objection Certificate' dated 23.3.07 was also issued. During March 2007, one vacancy of LD (Hindi) Typist arose in the Office of the 3rd respondent and petitioner submitted his application for the said post. The selection test and interview was conducted by the Southern Air Command (Unit) under the command of the 2nd respondent on 25.4.2007 itself. Petitioner's participation in the selection process was permitted by the NOC issued by the 2nd respondent as is evidenced by Ext.P3. By Ext.P4, petitioner was intimated that he has been selected as the main candidate for the post of LD (Hindi) Typist and he was directed to report to the 3rd respondent. This was also done by the petitioner and thus he completed the formalities.

2. Later, petitioner's application for discharge from service was forwarded to the Air Head Quarters. By Ext.P9, petitioner was intimated

that his application for discharge has not been approved by the Air Head Quarters. This decision has been challenged in this writ petition.

3. In the statement filed on behalf of the 1st respondent it is contended that the petitioner applied for discharge from service and his application was forwarded to the Air Force Record Office. He was issued an NOC, which is necessary to apply for any other post in the Central/State Government, and it is therefore that he appeared for selection to the post of LD (Hindi) Typist in April 2007. It is further stated that as per the existing policy as intimated by the Air Head Quarters, Southern Air Command, the petitioner is not entitled to the concession available to ex service men as he had appeared for examination and interview in 2007, which is not within one year of completion of his specified term of engagement on 29.6.2008. It is further stated that therefore the Air Force Record Office has rejected his request for discharge and his selection as Hindi Typist itself has been cancelled.

4. I have heard learned counsel for the petitioner and the learned Standing Counsel for the respondents. The question as to whether the petitioner is to be discharged from service and as to when he should be discharged are all matters which have to be decided by the competent authority in the Air Force. I do not propose to go into that aspect. I only note the reasons stated in Ext.P9 as to why the Air Head Quarters have not approved the petitioner's application for a discharge. The reasons in the

statement seems to suggest that the petitioner should not have been given an NOC for applying for the post because it was done more than one year prior to the date on which the petitioner completes his 20 years of service. There is also a suggestion that the said post is also cancelled. This also did not find a place in Ext.P9.

In the circumstances, the writ petition is disposed of directing the 1st respondent to consider the petitioner's application for discharge from service in accordance with law and take a fresh decision thereon, within a period of two months from the date of receipt of a copy of this judgment.

V.GIRI, JUDGE

vps